

ORDINANCE NO. 11-05

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 78 ENTITLED "SOLID WASTE" OF THE CODE OF ORDINANCES AND IN PARTICULAR, AMENDING ARTICLE I. IN GENERAL TO INCLUDE A DEFINITION OF THE AUTHORITY OF THE DIRECTOR OF SOLID WASTE AND REVISE DEFINITIONS, CREATE A METHOD OF ENFORCEMENT, IMPOSITION OF SPECIAL ASSESSMENT LIENS AND ESTABLISH A SCHEDULE OF FINES, AMENDING ARTICLE II. NUISANCES TO PROHIBIT DONATION BINS, CONSOLIDATING ARTICLE III. GARBAGE COLLECTION AND ARTICLE IV. TRASH COLLECTION, CREATING A MANDATORY RESIDENTIAL RECYCLING PROGRAM, PROVIDING FOR AUTOMATED GARBAGE COLLECTION, CREATING SEPARATE COLLECTION AND DISPOSAL REGULATIONS FOR BULK TRASH AND BULK YARD TRASH, REPEALING ARTICLE VII. RECYCLING, AND MISCELLANEOUS REGULATIONS; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, the purpose and intent of this ordinance is to implement regulations that reflect current and prospective changes in the solid waste collection service to residents of the City of Hialeah intended to optimize efficiency and make better use of the City's resources;

**WHEREAS**, the operational changes will be phased in over the next six months to a year giving the residents an ample opportunity to become familiarized with the changes in service; and

**WHEREAS**, it is in the best interest of the health, safety and general welfare of the community and the residents of the City of Hialeah to benefit from the advantages of a modern solid waste management system including the benefits of a cleaner environment and lower costs associated with recycling.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

**Section 1:** Chapter 78 entitled "Solid Waste", of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 78

**SOLID WASTE**

**ARTICLE I. IN GENERAL**

**Sec. 78-1. Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Bulk ~~waste~~ trash* means furniture, appliances, electronics and any other discarded large household item that cannot be placed in an approved garbage container for disposal, and major tree cutbacks.

*Bulk yard trash* means major tree cutbacks and other vegetative matter resulting from landscaping including lawn and garden debris, weeds, leaves, bushes, cuttings, grass clippings and branches.

*Commercial account* means a hotel, motel, school, church, temple, day care center, nursery, office, restaurant, warehouse, or any business or industrial activity.

*Dumpster* means a ~~trash or~~ garbage container or recycling container that is at least one yard in size.

*Garbage* means every refuse accumulation of animal, fruit or vegetable matter that attends the preparation, use, cooking, dealing in, or storage of meats, fish, fowl, fruit, or vegetables and any other matter, of any nature whatsoever, which is subject to decay and the generation of noxious or offensive gases or odors or which, during or after decay, may serve as breeding or feeding materials for flies or other germ-carrying insects, and any bottles, cans, or other containers which, due to their ability to retain water, may serve as breeding places for mosquitoes or other water-breeding insects. Garbage also includes small, discarded materials from around the premises, such as cans, glass, paper, paper cartons, lawn clippings, grass cuttings, leaves, and small trimmings that can be deposited in approved containers. Discarded building materials, dirt, rock, plaster, scrap iron, and other like materials shall not be considered waste and do not come within the definition of trash. Dead animals are not considered garbage, and their disposal is the responsibility of the county.

*Household* means all residential property, i.e., single-family, townhouses, duplexes and apartments. It does not include hotels and motels where residency is on a daily or weekly basis.

*Recyclable material* is any material that is capable of being feasibly recycled and has been diverted and source separated or has been removed from the solid waste

stream for sale, use, or reuse as raw materials and which, if not recycled, would be processed and disposed of as solid waste. The term shall include any general item made of glass, aluminum, steel, plastic or paper that has known recycling potential.

Residential unit means any structure that is used or constructed for use as a dwelling or providing living accommodations.

Roll-off means a container designed to be transported by motorized vehicle and used in the collection and removal of construction waste debris

Solid waste means trash and garbage, litter, bulk trash and yard trash.

Trash means small, discarded materials from around the premises, such as cans, glass, paper, paper cartons, lawn clippings, grass cuttings, leaves, and small trimmings that can be deposited in approved containers. Discarded building materials, dirt, rock, plaster, scrap iron, and other like materials shall not be considered waste and do not come within the definition of trash.

### **Sec. 78-2. Enforcement Authority of the director of solid waste to adopt rules or regulations.**

The director of solid waste shall administer and enforce this chapter. Subject to the approval of the mayor, the director of solid waste is hereby authorized to adopt and amend reasonable rules and regulations concerning the collection, conveyance and disposal of solid waste as he deems necessary, including, but not limited to, regulations concerning the days of collection, number, type, and location of containers to be kept at each location. Any person aggrieved by a rule or regulation established by the director shall have the right to appeal to the mayor, who shall have the authority to confirm, modify or revoke any such rule or regulation. Prior to the issuance of a building permit, the director shall be consulted in order that assurances can be obtained for the proper location of dumpsters and providing for the shielding of dumpsters from view.

### **Sec. 78-3. Enforcement.**

(a) The director of solid waste shall administer and enforce this chapter.

(b) Solid waste inspectors may enter, at any reasonable time, any building, structure or premises for the purpose of inspection, or to prevent the violation of any provision in this Chapter.

(c) If a solid waste inspector, upon inspection of any building, structure or premises, observes a violation of this Chapter or an accumulation of garbage, trash, or other waste that creates a health hazard or nuisance, the inspector shall order the property owner, occupant or person causing or responsible for such violation, health hazard or nuisance to correct the violation within a specified reasonable period of time.

(d) The solid waste inspector shall also serve a citation, the contents of which shall be in accordance with section 22-183 of the Code. The citation shall also specify:

(1) The amount of any fine that may be due in connection with the violation, pursuant to the schedule of fines provided for in sections 78-5 and 78-6.

(2) That in addition to the fines imposed pursuant to the schedule in section 78-5 and 78-6, there shall be a civil penalty of the fine amount or as provided in section 78-37 for each day the violation continues after the reasonable time period within which to correct the violation has expired.

(3) The procedure for timely payment or appeal of the fine.

(c) The citation shall be served personally or by certified mail upon the owner or upon the person in lawful possession of the premises and/or upon the private waste contractor involved. If the person to whom the notice is addressed cannot be found after diligent search, the notice shall be sent by certified mail to the last known address of such person pursuant to section 22-189(a). The citation shall also be posted in a conspicuous place on the building, structure or premises.

(f) If in the opinion of the inspector, the conditions observed constitute an immediate threat to the health, safety, or welfare of the public, the inspector may order the immediate correction of the hazard. If the condition posing the threat is not corrected, the city may take all necessary corrective action to eliminate the hazard and clear, clean, and restore the property at the expense of the property owner, occupant or person responsible for the hazard. The city shall have the right to recover such expenses incurred in the removal of the waste or hazard or abatement of the nuisance as provided in section 78-35. Any fine due pursuant to section 78-5 or 78-6 shall also be charged to the owner or occupant. Failure to pay such costs and fines to the city within 30 days of notification of same shall result in the imposition of a special assessment lien on the property pursuant to section 78-35.

#### **Sec. 78-4. Appeal to special master.**

(a) Any person receiving a citation pursuant to section 78-3 shall elect either to pay the fine and correct the violation or request, within 10 days of receipt of the notice, an administrative hearing before a special master appointed as provided in chapter 22 to appeal the decision of the city inspector resulting in the issuance of the citation. Procedures for the conduct of the hearing shall be as provided in chapter 22 of the Code, specifically section 22-186. Failure to appeal within the prescribed time period shall constitute a waiver of the violator's right to an administrative hearing. A waiver of the right to an administrative hearing shall be treated as an admission of the violation as noticed; and penalties may be assessed accordingly.

**Sec. 78-5. Schedule of fines for violations issued and applied against property owners, agents, tenants, occupants, operators or managers, or persons responsible for the violation.**

<u>Code Section</u>	<u>Description of Violations</u>	<u>Fine</u>
1. <u>Sections 78-31, 78-32, and 78-33:</u>		
	a. <u>Failure to maintain premises clean and free from accumulation of garbage, trash, or overgrowth</u>	<u>\$100.00</u>
	b. <u>Failure to keep area around dumpster clean</u>	<u>\$100.00</u>
2. <u>Section 78-36:</u>		
	a. <u>Illegal disposal of garbage, trash, bulk trash, or bulk yard trash</u>	<u>\$250.00</u> <u>first</u> <u>offense;</u> <u>\$500.00</u> <u>each</u> <u>additional</u> <u>(pursuant</u> <u>to section</u> <u>58-31)</u>
3. <u>Section 78-37:</u>		
	a. <u>Donation bins</u>	<u>\$100.00</u>
4. <u>Sections 78-62 thru 78-66:</u>		
	a. <u>Failure to recycle</u>	<u>\$ 50.00</u>
	b. <u>Failure to use city container</u>	<u>\$ 50.00</u>
	c. <u>Failure to separate recyclable materials</u>	<u>\$ 50.00</u>
	d. <u>Placing container in improper location or out of schedule for collection</u>	<u>\$ 50.00</u>
	e. <u>Unauthorized collection or scavenging of recyclable materials</u>	<u>\$100.00</u>
5. <u>Section 78-68:</u>		
	a. <u>Placing container in improper location or out of schedule for collection</u>	<u>\$ 50.00</u>
	b. <u>Setting out uncontainerized garbage or trash for collection</u>	<u>\$ 50.00</u>
	c. <u>Container in poor condition per subsections (f)(1) – (f)(9)</u>	<u>\$ 50.00</u>
	d. <u>Unauthorized collection of garbage or trash</u>	<u>\$100.00</u>
6. <u>Sections 78-70</u>		

and 78-71:

a. <u>Placing bulk trash or bulk yard trash in improper location or out of schedule for collection</u>	<u>\$250.00</u>
b. <u>Commingled trash</u>	<u>\$100.00</u>
c. <u>Exceeding the set-out limit</u>	<u>\$250.00</u>

7. Section 78-75:

a. <u>No garbage collection or below minimum frequency</u>	<u>\$250.00</u>
b. <u>No recyclable material collection or below minimum frequency</u>	<u>\$250.00</u>
c. <u>No bulk trash collection or below minimum frequency</u>	<u>\$250.00</u>
d. <u>Waste overflow, overload or accumulation creating a nuisance</u>	<u>\$250.00</u>
e. <u>Dumpsters, garbage, or bulk trash on public property</u>	<u>\$250.00</u>
f. <u>Dumpster in disrepair, abandoned, or not screened from view</u>	<u>\$100.00</u>
g. <u>Graffiti on dumpster or enclosure</u>	<u>\$250.00</u> <u>first</u> <u>offense;</u> <u>\$500.00</u> <u>each</u> <u>additional</u> <u>(pursuant</u> <u>to section</u> <u>58-41)</u>

**Sec. 78-6. Schedule of fines for violations issued and applied against private waste collectors.**

<u>Code</u> <u>Section</u>	<u>Description of</u> <u>Violations</u>	<u>Fine</u>
<u>1. Section 78-75:</u>		
	a. <u>Contracting for or providing garbage collection service below minimum frequency</u>	<u>\$250.00</u>
	b. <u>No recycling service or contracting or providing for service below minimum frequency</u>	<u>\$250.00</u>

c. <u>No bulk trash collection service or contracting or providing for service below minimum frequency</u>	<u>\$250.00</u>
d. <u>Dumpster on public property</u>	<u>\$250.00</u>
e. <u>Dumpster in disrepair, rusted, abandoned, or unserviceable</u>	<u>\$250.00</u>
f. <u>Dumpster without private collector's identification</u>	<u>\$100.00</u>
g. <u>Unauthorized collection, removal, or transport of solid waste</u>	<u>\$250.00</u>
h. <u>Servicing any account within 300 ft. of any residence outside permitted hours</u>	<u>\$250.00</u>
i. <u>Failure to remove all garbage and trash placed in dumpster for collection</u>	<u>\$250.00</u>
j. <u>Dumpster not removed after account is closed or permit or license is revoked</u>	<u>\$250.00</u>
k. <u>Placing a roll-off within city limits without a permit</u>	<u>\$250.00</u>

**Sec. 78-37. Penalty.**

Any person found to be in violation of this Chapter for which a fine is specified in the amount of \$50.00, shall be fined for a second offense in the amount of \$100.00, a third offense in the amount of \$250.00, and each subsequent offense in the amount of \$500.00. Any person found to be in violation of this Chapter for which a fine is specified in the amount of \$100.00, shall be fined for a second offense in the amount of \$250.00 and a third offense or any subsequent offense in the amount of \$500.00. Any person found to be in violation of this Chapter for which a fine is specified in the amount of \$250.00 or \$500.00, all subsequent offenses shall be fined in the maximum amount of \$500.00. Continuing daily fines shall be the same amount each day as the specified fine or the amount of the second offense, third offense or subsequent offense as applicable.

Any person ~~convicted of violating~~ found to be in violation of this chapter, for which no fine is specified, shall be punished as provided in section 1-11. Fines for such offenses shall be as follows:

a. First offense, \$100.00

b. Second offense, \$250.00

c. Third offense, \$500.00

The performance on each day of any act or practice declared to be unlawful under this chapter shall constitute a separate offense and shall be punishable as such.

**Sec. 78-5. Illegal disposal.**

~~No garbage shall be burned, buried, placed around shrubbery or trees, or used as fowl or fish food or transported upon the public highways of the city. The burning, burying, placing around shrubbery or trees; using as animal, fowl or fish food; or transporting on the public highways of the city of garbage or otherwise illegal discarding of garbage shall constitute prima facie evidence of violation of this chapter by the householder or manager of the premises on which the garbage shall have occurred or from which the garbage shall have been transported. The presence of ashes, charred wastes and like substances on the premises shall constitute prima facie evidence of burning. No waste shall be permitted to accumulate so as to comprise a nuisance, fire hazard, breeding place for flies or other insects, or harbor for rodents.~~

**Secs. 78-8 – 78-30. Reserved.**

**ARTICLE II. NUISANCES**

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**Sec. 78-36. Illegal disposal.**

No garbage or trash shall be burned, buried, placed around shrubbery or trees, or used as fowl or fish food or transported upon the public streets, roads, alleys, driveways or rights-of-way of the city. The burning, burying, placing around shrubbery or trees; using as animal, fowl or fish food; or transporting on the public streets, roads, alleys, driveways or rights-of-way of the city of garbage or otherwise illegal discarding of garbage or trash shall constitute prima facie evidence of violation of this chapter by the householder or manager of the premises on which the garbage or trash shall have occurred or from which the garbage or trash shall have been transported. The presence of ashes, charred wastes and like substances on the premises shall constitute prima facie evidence of burning. No waste shall be permitted to accumulate so as to comprise a nuisance, fire hazard, breeding place for flies or other insects, or harbor for rodents.

**Sec. 78-37. Donation bins prohibited.**

It shall be unlawful to deposit, store, keep or maintain or to permit to be deposited, stored, kept or maintained a donation collection bin located outside in or on any lot, parcel or tract of land in any zoning district. A donation collection bin is hereby defined as a receptacle designed with a door, slot or other opening and which is intended to accept and store donated items; provided, however, the



definition of donation collection bins shall not include trailers, where personnel are present to accept donations.

**Secs. 78-38 – 78-60. Reserved.**

### **ARTICLE III. GARBAGE COLLECTION AND DISPOSAL**

#### **A. Recyclable Materials**

##### **Sec. 78-15661. Intent.**

Since residential waste makes up between fifty-five to sixty-five percent of municipal solid waste, it is the intent of the city to establish a mandatory residential citywide curbside recycling program to contribute towards preserving our environment, conserving natural resources, decreasing pollution, saving energy and downsizing landfills. , in compliance with the 1988 Florida Solid Waste Management and Recycling Law. To this end, this article is enacted to encourage recycling activities throughout the city to the fullest extent possible.

##### **Sec. 78-62. Collection of recyclable material, schedule.**

It is the function exclusively of the department of solid waste to collect of all recyclable material in the city except as authorized by the city. Recyclable material will be collected once every two weeks on a schedule determined by the director of solid waste.

##### **Sec. 78-63. Containers and location.**

(a) All recyclable material to be collected by the city shall be contained in containers provided for by the city only. The city shall provide all household solid waste account holders containers approved for the collection and disposal of recyclable material. The cost of replacing lost or damaged containers, where the damage is as a result of neglect, abuse, mutilation or modification, shall be paid by the account holder. The city will replace, free of charge, containers that are damaged as a result of the collection process or stolen containers, so long as the account holder submits a copy of the police report for the theft. It shall be unlawful for any person to place or cause or allow to be placed any recyclable material for collection in any other container, receptacle or bag or in any other manner except as provided for in this Article.

(b) Each household account holder is obligated to separate recyclable materials and place them inside the designated container provided for collection. Failure to recycle is a violation of this section. Failure to set out recyclable material in the designated container for collection for two consecutive collection days together with the presence of any recyclable material commingled with, in

the container designated for garbage collection, or otherwise disposed of or set out for collection as garbage shall constitute a rebuttable presumption that a violation has occurred for failure to recycle.

(c) Containers for recyclable materials shall be placed for collection in front of the property, on the swale area, between the sidewalk and the street pavement, or immediately adjacent to the sidewalk, where curb and gutter exist being mindful not to obstruct pedestrian or vehicular traffic. Where automated collection is provided, the container shall be placed on the curb cut or driveway approach no more than three feet from the edge of the street or roadway and no less than five feet from any other container or object. The front of the cart shall face the street. Containers shall not be placed on the sidewalk or street or in any location where automated collection may be obstructed, difficult or impeded.

(d) Containers shall be placed for collection no earlier than one day prior to the scheduled collection day and no later than 6:00 a.m. on the morning of the collection day. Containers shall be removed on the day of collection.

(e) The solid waste department shall not remove recyclable materials that are not in approved containers or where the container is located contrary to the provisions of this Article. Recyclable materials disposed in containers that do not conform to the provisions of this Article or that contain other defects likely to hamper servicing the container or injuring the collectors shall not be serviced.

(f) All containers shall be maintained in good condition and repair. All containers must be kept clean at all times. No container shall be permitted to develop jagged or sharp edges capable of causing injury to the collectors.

**Sec. 78-64. Recycling program required for all residential occupancies not serviced by the city including hotels and motels.**

(a) All other residential occupancies not serviced by the city, including hotels and motels, that contract for garbage and bulk trash collection and disposal service from an authorized private waste collector pursuant to the provisions of this Chapter, shall provide for the collection of recyclable materials at least twice a month by an authorized private waste collector. There shall be a sufficient number of containers or a dumpster of sufficient capacity provided by the property owner for the specific and sole purpose of collecting and storing the equivalent of at least 35 pounds of recyclable materials for each residential unit accumulated between collections. The containers shall be clearly marked as designated for recyclable materials and shall be placed in a location easily accessible. All occupants shall be instructed on the availability and required participation in the recycling program. The service shall allow for the collection and disposal of the following materials:

- (1) Newspaper
- (2) Glass
- (3) Aluminum and steel cans

(4) Plastics

(5) Paper

(6) Cardboard

(b) The failure of a residential occupancy not serviced by the city, hotel or motel to provide a recycling program shall constitute a violation of this section for which the property owner shall be liable.

**Sec. 78-15865. Ownership of recyclable materials.**

From the time of placement of recyclable materials for collection, these items shall become the property of the city or its authorized agents. No person shall be permitted to collect or pick up or cause to be collected or picked up any recyclable material that has been placed ~~at curbside~~ for collection at any residential or commercial property unless with the prior written consent of the city.

**Sec. 78-15966. Authorized pickup Unauthorized collection or scavenging prohibited.**

No person shall be permitted to collect or pick up, ~~or~~ cause to be collected, picked up or scavenged any recyclable material placed at any residential or commercial property unless with the prior written consent of the city.

**Sec. 78-16167. Disposition of revenue.**

Revenues derived from fines resulting from violation of this article shall be utilized to further the city's recycling program.

**B. Garbage**

**Sec. 78-6168. Collection, Schedules.**

It is the function exclusively of the department of solid waste to collect and dispose of all garbage in the city except as authorized by the city. Garbage will be collected twice weekly on a schedule determined by the director of solid waste.

**Sec. 78-6269. Garbage containers, condition and location.**

(a) The owner of each lot, tract or parcel of land having a household or commercial account located thereon shall pay or cause to be paid the fee for solid waste service for each such household or commercial account, as required by this chapter, and shall also provide or cause to be provided sufficient approved

~~containers to take care of at least one week's accumulation of solid waste on the premises; accommodate all garbage to be collected and disposed of by the city or other authorized private waste collector. It shall be unlawful for any person to place or cause or allow to be placed any garbage for collection in any other container, receptacle, bag or in any other manner except as provided for in this Article. Not less than one approved container shall be considered sufficient for each household; for each four rooms in a hotel, motel or other overnight accommodations where no cooking privileges are provided; for each room in such hotel, motel or other overnight accommodations where cooking privileges are provided; for each apartment in an apartment house; and for each and every other commercial account.~~

(b) Containers for garbage shall be watertight receptacles of not more than a 32-gallon capacity, of a solid and durable grade of material, and shall be provided with suitable handles and with a tight fitting cover equipped with a handle. ~~No container shall be permitted to develop jagged or sharp edges capable of causing injury to the waste collectors.~~

Where automated garbage collection is provided, only containers provided for by the city shall be used in the disposal of all garbage. Where allowed by the city, the household account holder may request to purchase one additional container. The cost of acquiring an additional container approved for automated collection of garbage shall be paid by the account holder. The cost of replacing lost or damaged containers, where the damage is as a result of neglect, abuse, mutilation or modification, shall be paid by the account holder. The city will replace, free of charge, containers that are damaged as a result of the collection process or stolen containers, so long as the account holder submits a copy of the police report for the theft. Automated garbage collection containers are the property of the city and must remain at the location of service notwithstanding a change in property ownership or occupancy. All containers must be kept clean at all times.

(c) Containers for garbage shall be placed for collection in front of the property, on the swale area, between the sidewalk and the street pavement, or immediately adjacent to the sidewalk, where curb and gutter exist being mindful not to obstruct pedestrian or vehicular traffic. Where automated garbage collection is provided, the container shall be placed on the curb cut or driveway approach no more than three feet from the edge of the street or roadway and no less than five feet from any other container or object. The front of the cart shall face the street. Containers shall not be placed on the sidewalk or street or in any location where manual or automated collection may be obstructed, difficult or impeded.

(d) *Hialeah Downtown Urban Center district and properties zoned CBD, CR and R-3-D.* The city shall provide a total waste collection system to all new residential units and commercial accounts in these zoning districts including the following scheduled services:

- a. Garbage collection with a 32-gallon garbage container and/or dumpster.
- b. Bulk waste collection service.
- c. Recycling collection.
- d. Street cleaning services.

c. Litter control.

The city will provide additional unscheduled services, upon request, to remove waste tires or illegal dumping on serviced property. The city, within its sole discretion, shall select collection methods, container or dumpster locations and frequency of service.

(e) Containers shall be placed for collection no earlier than one day prior to the scheduled collection day and no later than 6:00 a.m. on the morning of the collection day. Containers shall be removed on the day of collection.

~~(e)~~ (f) The following regulations shall apply to the condition and use of containers:

(1) No materials and/or liquids other than wastes ready for removal shall be kept in containers designated for garbage collection. ~~waste cans.~~

(2) All garbage must be thoroughly drained of liquid matter and shall be well wrapped in paper or bagged before being deposited in containers. Containers in which wet garbage or trash matter are placed shall be leakproof. ~~Waste containers shall be kept tightly covered at all times.~~

(3) Animal and human feces must be well wrapped in paper.

(4) All glass, razor blades, syringes and needles, and all other like materials shall be securely wrapped to prevent personal injury to collectors. No hot ashes, tar, grease, chemicals, poisons, or other materials offering a hazard to collectors shall be placed in ~~waste~~ containers.

~~(5) Containers shall be placed where easily accessible to waste collectors.~~

~~(6) All garbage containers shall be placed at the curbside in front of the property in such a manner as not to obstruct pedestrian or vehicular traffic, except in the Hialeah Downtown Urban Center district and properties zoned CBD, CR and R-3-D where the city shall provide a total waste collection system to all new residential units and commercial accounts to include the following scheduled services:~~

~~a. Garbage collection with a 32-gallon garbage container and/or dumpster.~~

~~b. Bulk waste collection service.~~

~~c. Recycling collection.~~

~~d. Street cleaning services.~~

~~e. Litter control.~~

~~The city will provide additional unscheduled services, upon request, to remove waste tires or illegal dumping on serviced property. The city, within its sole discretion, shall select collection methods, container or dumpster locations and frequency of service.~~

~~(7)~~(5) The householder and/or others shall not permit hazards in the line of ingress or egress of the waste collectors.

~~(8)~~(6) The solid waste department shall not remove wastes that are not in approved containers, uncontainerized garbage or other material set out for disposal, or where the container is located contrary to the provisions of this

Articlesection. Garbage disposed in containers that do not conform to the provisions of this Article or that contain other defects likely to hamper servicing the container or injuring the waste collectors shall not be serviced. All containers shall be subject to inspection and approval or condemnation by a code inspector upon notice to the property owner. An appeal from such condemnation shall be to the director of solid waste. Such container shall be promptly replaced by the owner or user of the container upon receipt of notice of the defect.

(7) All containers shall be maintained in good condition and repair. No container shall be permitted to develop jagged or sharp edges capable of causing injury to the waste collectors.

(8) All containers must be kept clean at all times.

(9) All garbage must be completely contained within the container. The container's lid shall be properly closed when set out for collection to deter flies, insects or other pests from having access to the contents. No container shall be serviced if there is any garbage, trash or other object protruding from the top of the container.

### **C. Bulk Trash**

#### **Sec. 78-9170. Collection, schedules, and set-out limits.**

All bulk Trash will be collected weekly once a month on alternating months on a schedule determined by the director of solid waste. A limit of eight cubic yards of bulk trash will be collected for every residence for each collection day. Setting out bulk trash for collection in excess of the limit is a violation of this section and collection of the excess will be considered a special service pursuant to section 78-72.

Bulk trash set out for collection shall be placed in front of the property, on the swale area, between the sidewalk and the street pavement, or immediately adjacent to the sidewalk, where curb and gutter exist, where it will be easily accessible to the city trash collection trucks, but not obstructing pedestrian or vehicular traffic. Bulk trash set out for collection shall not be placed adjacent or within five feet of buildings, fences, utility, telephone, or electric poles, trees, fire hydrants or in any area that would make it inaccessible to trash collection equipment. Setting out bulk trash that is commingled with yard trash or other garbage is a violation of this section. Bulk trash set out for collection that is commingled with yard trash or other garbage will not be collected. Only bulk trash generated from the property being serviced will be collected.

#### **Sec. 78-71. Bulk yard trash.**

The city will collect bulk yard trash which cannot be containerized and disposed of as garbage, separate from all other bulk trash once a month on alternating months. A limit of eight cubic yards of bulk yard trash will be collected for

every residence for each collection day. Bulk yard trash set out for collection shall be separated from and not be commingled with any other bulk trash or garbage. Branches, dried leaves, grass clippings and other small yard trash may be tied in bundles or put in heavyweight weatherproof plastic sealed bags weighing no more than 50 pounds each and placed for collection on the designated day of the month as part of the bulk yard trash collection service provided by the city. The total weight of any bags containing small yard trash set out for collection will be included as part of the set-out limit allowed. There is no additional allowance for the total quantity of bulk yard trash permitted for every residence for each collection day as a result of placing small yard trash in bags for collection. Trash collectors will not pick up broken bags. Setting out bulk trash for collection in excess of the limit is a violation of this section and collection of the excess will be considered a special service pursuant to section 78-72. Any residual yard trash that cannot be easily collected or remains uncollected by the trash collection equipment shall be the responsibility of the property owner to remove from the designated area of collection. Any residual yard trash that remains uncollected must be removed no later than 6:00 a.m. the morning following the day of collection. Setting out bulk yard trash that is commingled with other bulk trash or garbage is a violation of this section. Bulk yard trash set out for collection that is commingled with other bulk trash or garbage will not be collected. Only bulk yard trash generated from the property being serviced will be collected.

#### **Sec. 78-~~92~~72. Special services.**

Special trash collections; ~~on Saturdays, Sundays and holidays~~; collections outside the regular hours of operation of the solid waste department or collections outside the scheduled days; collection of trash in excess of the set-out limits; unusual character of service; one-time-only cleanup; or service not covered in this chapter will be performed ~~for such fees and~~ under such conditions as may be agreed upon by the director of solid waste and the person requesting the collection pursuant to a schedule of fees. Residents shall not place any recyclables, garbage, bulk trash or bulk yard trash out before making specific arrangements for special services with the solid waste department.

A fee for special collection shall become delinquent if it is not fully paid within 30 days. It shall bear interest and be enforced and collected pursuant to Sec 78-35. Refusal or delay in rendering payment for any special collection performed pursuant to this section shall result in the fees being added to the regular solid waste fees billed against the property where such special collection is made. The special collection fees are hereby imposed as a special assessment lien against the real property of the person requesting the collection and from which the collection was made, and until fully paid and discharged, or barred by law, shall remain a lien equal in rank and dignity with ad valorem tax liens and superior in rank and dignity to all other liens, encumbrances, titles and claims in, to or against the real property involved.

**Sec. 78-~~97~~73. Commercial accounts; additional or special pickups.**

Commercial accounts shall receive trash collection service for the number of containers paid for. No bulk trash service shall be provided by the city. Items of building materials, rock, lumber, car parts or other similar items will not be removed by the city. Additional or special pickups may be arranged under section 78-~~92~~72 with the approval of the director of solid waste.

**Sec. 78-9574. Construction, industrial, hazardous, biomedical, and non-combustible materials.**

The city shall not be responsible for the collecting or hauling of trash, discarded building material, dirt, rock, plaster, lumber, metal or other like material resulting from construction or demolition work. No certificate of occupancy shall be issued until all construction material has been removed by the owner of the property or by the contractor.

Removal of any industrial, hazardous, biomedical or noncombustible solid waste shall be the responsibility of the property owner, occupant, operator or contractor generating or causing the accumulation of such material.

**Sec. 78-~~47~~5. Removal of waste by private agencies.**

~~(a) It is the function exclusively of the department of solid waste to collect and dispose of all waste in the city except as authorized by the city.~~

~~(b)~~ (a) The director of the department of solid waste may authorize the collection of solid waste by private collectors if it is a commercial account or if the residential account contains four or more residential units contiguous to each other and under the same ownership or contains four or more residential condominium units; provided, however, that the residential account is not located in the Hialeah downtown urban center (HDUC) district or properties located within the CBD, CR and R-3-D districts. New residential and commercial accounts in the HDUC, CBD, CR and R-3-D zoning districts shall be serviced by the city. Elsewhere, if private collection is authorized, the contract with the private collector must include garbage, trash, ~~and~~ bulk trash, bulk yard trash, and recyclable materials collection. In addition, the contract must provide collection of recyclable materials at least once every other week, unless otherwise indicated, garbage collection service at least two times during each week, and bulk trash collection once a month. If ~~this~~ the minimum frequency of garbage collection service is insufficient to prevent a waste overflow, then the private collector must increase the number of onsite collections to prevent unsanitary conditions. Waste overflow will be determined by the city to include not only circumstances where garbage and trash have spilled over or out of the container but where the container cover cannot be closed or sealed tightly, leaving garbage and trash visible and exposed. If private collection is authorized, the sanitation collector must utilize dumpsters for the collection of garbage and trash. All dumpsters will contain the name of the servicing company and its phone number. Dumpsters will not be located in any of the city's rights-of-way, and must be contained on the private property being served. All dumpsters will be screened from the direct view of the adjacent property owner, and the property owner



utilizing a private collection service will be responsible for keeping the area around the container in a clean and presentable condition as well as keeping the sidewalk and swale area free of all trash and litter. In order to ensure sanitary conditions and not create any health hazards to the community, all dumpsters shall be watertight and maintained in proper state of repair. No waste shall be permitted to accumulate so as to comprise a nuisance, fire hazard, breeding place for flies or other insects, or harbor for rodents. The city has the right to remove all abandoned dumpsters after proper notice to the company shown on the dumpsters. Dumpsters shall not be placed on public property, including public rights-of-way and swale areas. The city shall consider dumpsters, located on public property, as abandoned and shall remove the dumpster, after posting a 24-hour notice on the dumpster for its removal, at the cost to the property owner or the private collector, if applicable.

(c) Effective July 1, 2008, all private waste haulers operating within city limits shall be required to pay a franchise fee of \$1,500.00 for each year plus 8 percent of the nonexclusive franchisee's quarterly gross receipts collected of accounts serviced within the city. The percentage of gross receipts fee shall increase to 12 percent of quarterly gross receipts collected effective July 1, 2009, increase to 15 percent of quarterly gross receipts collected effective July 1, 2010, increase to 18 percent of quarterly gross receipts collected effective July 1, 2011 and continue at 18 percent of quarterly gross receipts collected each year thereafter. The franchisee shall, on or before 30 days following the end of each quarter, deliver to the city a true and correct statement of gross receipts collected during the previous quarter along with payment. Notwithstanding the accounting year used by the franchisee, the quarters end on March 31, June 30, September 30, and December 31 of each year. This franchise fee is not applicable to open top roll offs, which fees are set forth in article VIII herein. A late fee of one and one-half percent for the first month shall be imposed if payment is not received by the tenth day of the next month that follows the month that the quarterly payment is due. For each month of nonpayment thereafter, the one and one-half percent late fee shall be imposed.

(1) The franchisee shall allow city auditors, after reasonable written notice and during regular business hours, to audit, inspect, and examine the franchisee's financial books and records and tax returns, insofar as such records relate to accounts within city limits, for the purpose of verifying the franchisee's compliance with this section.

(2) The franchisee shall receive an administrative cost credit of two and one-half percent of the percentage of gross receipts collected that shall be deducted from the percentage of gross receipts collected and remitted in each quarterly statement submitted to the city. This credit shall only be allowed if the franchisee makes payment in a timely manner without incurring a late fee and complies with city reporting requirements. If a city auditor finds that a franchisee has underreported its collected gross receipts on a quarterly statement, the city may suspend or revoke the franchise according to the license suspension and revocation procedures depending on the extent of underreporting and the intention of the franchisee.

(d) It shall be unlawful for any person to collect, remove or transport any solid waste material for compensation for any location or premises within the city without first having been authorized to do so by the department of solid waste. The requirements for a certificate of authorization from the department of solid waste are as follows:

- (1) A city business tax receipt (occupational license) upon payment of city business tax (formerly known as occupational license fee).
- (2) Submittal of a properly completed application for dumpster certificates.
- (3) A payment and performance bond in the amount of 30 percent of the average quarterly collected gross receipts of accounts serviced within city limits for the previous year, with the city as the obligee.
- (4) Proof of comprehensive general public liability insurance of a minimum of \$500,000.00.
- (5) Payment of the annual franchise fee and required percentage of quarterly gross receipts collected.
- (6) The council may waive the requirement of the payment and performance bond upon request based on exigent or special circumstances.

(e) Private waste collection companies shall provide service to accounts located within 300 feet of any residence only between the hours of 6:00 a.m. to 11:00 p.m.

(f) If a private collector intends to discontinue service to an account, the private collector must notify the city of its intent to discontinue or terminate service within 14 days of cessation of service. If the private collector does not notify the city of its intent to discontinue service, then the city will confiscate the dumpster and impose a collection, cleaning and storage charge to the private collector. The city will immediately service the account if private collection service ceases or is discontinued and charge the property for service provided.

(g) In addition to the penalties provided in this Code, violation of the provisions of this section shall be cause for suspension or revocation of the city occupational license.

#### **Sec. 78-~~96~~76. Prohibitions on disposal.**

(a) It is declared to be unlawful and a violation of this article for any person to do or to perform any of the following acts or practices:

- (1) Deposit or cause to be deposited in any street, gutter or in any stormwater inlet or basin within the city limits any sweepings, hair, paper, chips, bones, peelings, straw or any solid or liquid matter or trash whatsoever.
- (2) Place or cause to be placed upon or in any public street or alley discarded building material, articles, dirt, rock, glass or scrap metal, derelict automobiles or parts thereof. It shall also be unlawful and in violation of this article to place or cause to be placed upon any public street or alley discarded household furniture or furnishings, stoves, refrigerators and like articles at any time.
- (3) Molest, remove, handle, salvage or otherwise disturb the containers or other materials that have been placed on city property for servicing by the trash collectors. However, this subsection does not apply to the owner, occupant,

lessee or tenant of the residence, dwelling or business establishment from which the container and contents or material are removed.

(4) Dump or cause to be dumped or placed any refuse or trash of any kind whatsoever along the right-of-way of the public highways and roads or canals of the city, county or state. No person shall cast, place, sweep or deposit anywhere within the city any refuse or trash of any kind whatsoever in any such manner that it may be carried or deposited by the elements, upon any street, road, alley, driveway, right-of-way, sewer, parkway, or other public place or into any premises within the city.

(5) Place or cause to be placed in any garbage or recycling container or on city property for servicing by trash collectors any acid, highly corrosive, or explosive material, inflammable liquids, hazardous, infectious or any other material of any kind deemed dangerous by the director of solid waste.

(b) The performance on each day of any act or practice declared to be unlawful under this section shall constitute a separate offense and shall be punishable as such.

**Secs. 78-77 – 78-105. Reserved.**

\* \* \*

**Section 2:    Repeal of Ordinances in Conflict.**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

**Section 3:    Penalties.**

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the City may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

**Section 4:    Inclusion in Code.**

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered to conform to the uniform numbering system of the Code.

**Section 5: Severability Clause.**

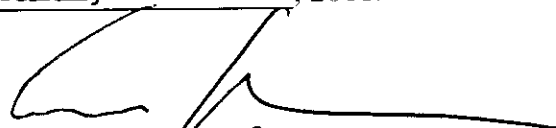
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

**Section 6: Effective Date.**

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.


PASSED AND ADOPTED this 22nd day of February, 2011.

THE FOREGOING ORDINANCE  
OF THE CITY OF HIALEAH WAS  
PUBLISHED IN ACCORDANCE  
WITH THE PROVISIONS OF  
FLORIDA STATUTE 166.041  
PRIOR TO FINAL READING.

  
\_\_\_\_\_  
Carlos Hernandez  
Council President

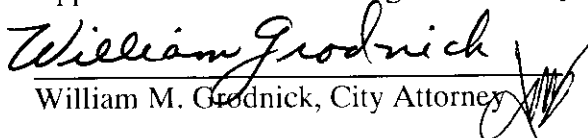
Attest:

Approved on this 25 day of February, 2011.

  
\_\_\_\_\_  
David Concepcion, Acting City Clerk

  
\_\_\_\_\_  
Mayor Julio Robaina

Approved as to form and legal sufficiency:

  
\_\_\_\_\_  
William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

Ordinance was adopted by a unanimous vote with Councilmembers, Caragol, Casals-Muñoz, Cue-Fuente, Garcia-Martinez, Gonzalez, Hernandez, and Yedra voting "Yes."